

Serial No.: 10/661,460
Group Art Unit: 3736
Examiner: Jeffrey G. Hoekstra
Atty. Docket No.: 22956-223 (MIT-5016)

AMENDMENTS TO THE DRAWINGS

The attached replacement sheets of drawings include Figures 1-7. These sheets numbered 1 through 12 replace original drawing sheets numbered 1 through 10. The replacements sheets provide formal drawings by a patent draftsperson which replace the dark photographs in the drawings previously submitted.

Attachment: Replacement sheets

REMARKS

Election/Restriction

Applicants confirm the provisional election of claims 1-25. Claims 26-30 are hereby withdrawn as being drawn to a non-elected invention.

Drawings

Applicants have amended the drawings to bring them in compliance with 37 C.F.R. 1.121(d). No new matter has been added.

Rejections Pursuant to 35 U.S.C. §102

The Examiner rejects claims 1-3, 10-11, 21-22 and 25 pursuant to 35 U.S.C. §102(b) as being anticipated by WO 99/58066 of Altman et al ("Altman"). Applicants respectfully disagree.

Independent claim 1 recites a tissue extraction and maceration device including an outer tube having a substantially open distal end adapted to be placed on a tissue surface, and a shaft rotatably disposed within the outer tube. The shaft is movable between a first, proximal position in which the shaft is fully disposed within the outer tube, and a second, distal position in which a portion of a distal end of the shaft extends through the opening in the distal end of the outer tube. Claim 1 also recites a tissue harvesting tip formed on the distal end of the shaft and effective to excise a tissue sample, and a cutting member coupled to the shaft at a position proximal to the tissue harvesting tip and effective to macerate a tissue sample excised by the tissue harvesting tip.

Altman does not teach or even suggest a shaft disposed within an outer tube and movable between a first proximal position and a second distal position. As shown in Figure 1A, Altman discloses a device (10) for evacuating refuse from tissues of the body which includes a sheath (14) defining a suction route, a rotor (12) disposed within the sheath (14), and at least one cutting knife (13) connected to the rotor (12). Altman lacks any teaching that the rotor (12) is movable between a first proximal position in which rotor (12) is fully disposed within the sheath (14), and a second distal position, in which a portion of a distal end of the rotor (12) extends through the opening in the distal end of the sheath (14), as required by independent claim 1. Rather, Altman discloses only that the rotor 12 is connected to and turns the knife (13, 30), and that the rotor 12 is centered within the sheath 14 via two radial spacers (18, 20). See specification, page 6, lines 5-14; and page 8, lines 4-5.

Altman does not suggest in any way that the rotor 12 is movable in a manner as recited by independent claim 1.

Altman also fails to disclose a device having a tissue harvesting tip formed on the distal end of a shaft, as further required by independent claim 1. As seen in Figures 8A-8C, Altman discloses a device having a pair of jaws (50) attached to sheath (14). The jaws (50) are not formed on the distal end of the rotor (12), as required by independent claim 1.

Accordingly, independent claim 1, as well as claims 2-3, 10-11, 21-22 and 25 which depend therefrom, distinguish over Altman.

Rejections Pursuant to 35 U.S.C. §103

The Examiner rejects dependent claims 4-9, 12-20, and 23-24 pursuant to 35 U.S.C. §103(a) as being obvious over Altman in view of one of various references set forth in the Office Action. As explained above, claim 1 distinguishes over Altman. The remaining cited references fail to cure the deficiencies of Altman. Accordingly, claims 4-9, 12-20, and 23-24 are allowable at least because they depend from an allowable base claim.

Conclusion

In view of the remarks above, Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. Applicants encourage the Examiner to telephone the undersigned in the event that such communication might expedite prosecution of this matter.

Respectfully submitted,

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